# In the Supreme Court of the United States

OCTOBER TERM, 1973

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JACK EDWARD GALARDI AND ANGEL JERROLD GALARDI,
PETITIONERS

*v.*

UNITED STATES OF AMERICA

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT*

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**MEMORANDUM FOR THE UNITED STATES IN OPPOSITION**

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Petitioners allege that they were denied a speedy trial, that portions of a prior statement of a government witness should not have been admitted in evidence, and that they were improperly convicted on the uncorroborated testimony of an accomplice.

Following a jury trial in the United States District Court for the Central District of California, petitioners were convicted on six counts of aiding and abetting the breaking into of U. S. Post Offices in violation of 18 U.S.C. 2 and 2115, of receiving and concealing postal money orders in violation of 18 U.S.C. 641, and of conspiracy to commit those offenses in violation of 18 U.S.C. 371. Both were sentenced to imprisonment for terms of five years.[1] The court of appeals affirmed on April

[1] Jack Galardi and another defendant, one Peter Lafkas, were also convicted of violations of 18 U.S.C. 2 and 2314 for aiding and abetting the transportation of money orders in foreign commerce.

4, 1973, except that all the convictions based on the international transportation of the money orders were reversed. A petition for rehearing was denied on May 17, 1973. The petition for a writ of certiorari was not filed until June 26, 1973, and is thus out of time under Rule 22(2) of the Rules of this Court. In any event, there is no reason to grant the writ.

1. The contentions regarding the denial of a speedy trial and the inadmissibility of the prior statements of a government witness were raised in the petition in No. 72-6695, filed by Angel Galardi on May 7, 1973. We rely here upon our response to those contentions in No. 72-6695.[2]

2. Petitioners also contend here that the testimony of two co-conspirators was uncorroborated, and thus allegedly not sufficient to support a guilty verdict. The co-conspirators' testimony was, however, amply corroborated by other evidence. Expert testimony established that 27 fingerprints belonging to the Galardis and to co-defendent Peter Lafkas were found on various money orders (Tr. 599, 645). Moreover, detailed evidence of the trip taken by Lafkas to Vietnam for the purpose of disposing of the money orders was presented, including introduction of a copy of the flight manifest showing departure on June 26, 1968, for Tokyo on a through ticket to Hong Kong (Tr. 599). In any event, "there is no absolute rule of law preventing convictions on the

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[2] We are furnishing present counsel with a copy of our Brief in Opposition in No. 72-6695.

testimony of accomplices if juries believe them." *Caminetti* v. *United States*, 242 U.S. 470, 495.[3]

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
*Solicitor General.*

AUGUST 1973.

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[3] Petitioner notes that the concurring opinion in *United States* v. *Hibler*, 463 F. 2d 455, 462-464 (C.A. 9), questions the conclusion that uncorroborated accomplice testimony may sustain a conviction. In *Hibler*, the accomplice testimony was not only totally uncorroborated, but was substantially controverted by other testimony. Nevertheless, the majority specifically accepted "the established rule that an accomplice's testimony need not be corroborated before an accused can be convicted" (*id.* at 458). It based its reversal on two other grounds.

[003-1973-08]